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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5115 OF 2005

Umar Mohammad Anware & anr. ... Petitioners

V/s.

Smt.Ayeshabibi Rajahasan Pathan & Anr. ... Respondents

Mr.R.S. Apte for Petitioners
Mr.P.S. Dani for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 18, 2005**

P.C.:

. This Petition challenges the concurrent findings of fact of both the Courts below wherein it has been found that the Petitioners were not the family members of the original tenant M.K. Anware. Both the Courts below have found that the Petitioner could not claim tenancy under section 5(11)(c)(ii) as they were neither members of M.K. Anware's family nor were they carrying on business alongwith M.K. Anware as his business partners. These findings of fact need not be disturbed. In view of this, the Petition must be rejected.

2. The submission made on behalf of the Petitioners that the suit itself was not maintainable since the appellate Court has held that the Petitioners are

trespassers is unsustainable. The suit was filed by the Respondents for bonafide requirement against M.K. Anware who was the original tenant, Ismail Mohammad Yusuf Anware was the son of the original tenant and Amina Abdul Kadir Gondekar, the daughter of the Petitioner who were Defendants Nos.1 and 2 to the suit were joined as parties as they claimed to be the heirs and legal representatives of the original tenant. The Petitioners who were Defendant Nos.3 and 4 respectively to the suit did not have any independent right and claimed possession through the original tenant. In my view, no case has been made out. Hence, Petition rejected.